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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO. 218 OF 2004

Integrated Finance Company Ltd. .. Applicant

Vs.

Gleitlager (India) Ltd. and anr. .. Respondents

Mr. Ashok Varma i/b Mayur Narendra & Co. for
applicant.

Mr. D.J. Kakaliya i/b Mulla & Mulla for Respondent
No.1.

CORAM : B. H. MARLAPALLE, J.

Date : February 03, 2006.

P.C.:

1. The agreement between the parties provides for
arbitral reference in terms of Clause 16 which reads
as under:-

"16. All disputes and differences which may
arise hereinafter between the parties hereto
either during subsistence of this agreement of
thereafter the same shall be referred to the
Arbitration as per the provisions of
Arbitration and Conciliation Act, 1996 or any
statutory modification or re-enactment thereof
from time to time in force."

2. In response to the notice issued, the respondent has filed reply and tried to oppose the application solely on the ground that M/s. Tata Housing and Development Corporation Ltd. i.e. Respondent No.2 came in the way of the Respondent No.1 for sale/transfer of the agreed FSI i.e. 15000 sq.ft. built up area in favour of the applicant. It has also been stated that the agreement dated 30/3/1996 stood revived by the agreement dated 29/9/1998 and, therefore, there is no merit in the application moved.

3. These contentions raised by respondent no.1 for opposing this application cannot be entertained, more so when, admittedly, the respondent no.1 failed to perform the agreed terms of the said agreement and as at present the applicant has neither received the amount under recovery or 15000 sq.ft. FSI from the respondent no.1.

4. Names of Arbitrators were suggested to the parties and both of them have agreed to the name of Hon'ble Shri Justice R.J. Kochar (Retired) to be appointed as the sole Arbitrator.

5. Hence the challenge to the application is

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hereby rejected and Hon'ble Shri Justice R.J. Kochar (Retired) is appointed as the sole Arbitrator. Parties shall appear before him within four weeks and fix the further terms of arbitral proceedings including the time frame. Application disposed off in terms of above order.

(B.H. Marlapalle, J.)